



January 27, 2006

HOUSE BILL No. 1155

DIGEST OF HB 1155 (Updated January 25, 2006 11:53 pm - DI 51)

Citations Affected: IC 11-13; IC 35-44; IC 35-50; noncode.

Synopsis: Child molesting. Provides that a person who was at least 18 years of age when the person committed child molesting and is convicted of the offense must be: (1) placed on lifetime parole when the person's term of imprisonment is completed; and (2) required to wear a GPS monitoring device. Allows the parole board to require parolees who are sex and violent offenders to wear a GPS monitoring device. Prohibits a person on parole for child molesting from: (1) residing within 1,000 feet of certain facilities; or (2) owning, operating, managing, being employed by, or volunteering for certain specified activities. Makes violation of a condition of lifetime parole a felony. Specifies that a person convicted of child molesting in another state whose parole is transferred to Indiana is required to be placed on lifetime parole. Provides that, if a person being supervised on lifetime parole is also required to be supervised by a probation department or similar agency, the probation department or similar agency may have sole supervision of the person if the parole board finds that supervision by the probation department or other agency will be at least as stringent and effective as supervision by the parole board.

Effective: July 1, 2006.

Budak, Smith J, Ulmer, Bardon

January 5, 2006, read first time and referred to Committee on Courts and Criminal Code.
January 26, 2006, amended, reported — Do Pass.

HB 1155—LS 6247/DI 107+



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January 27, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1155

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 11-13-3-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A person
3 sentenced under IC 35-50 shall be released on parole or discharged
4 from the person's term of imprisonment under IC 35-50 without a
5 parole release hearing.
6 (b) A person sentenced for an offense under laws other than
7 IC 35-50 who is eligible for release on parole, or a person whose parole
8 is revoked and is eligible for reinstatement on parole under rules
9 adopted by the parole board shall, before the date of the person's parole
10 eligibility, be granted a parole release hearing to determine whether
11 parole will be granted or denied. The hearing shall be conducted by one
12 (1) or more of the parole board members. If one (1) or more of the
13 members conduct the hearing on behalf of the parole board, the final
14 decision shall be rendered by the full parole board based upon the
15 record of the proceeding and the hearing conductor's findings. Before
16 the hearing, the parole board shall order an investigation to include the
17 collection and consideration of:

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- (1) reports regarding the person's medical, psychological, educational, vocational, employment, economic, and social condition and history;
- (2) official reports of the person's history of criminality;
- (3) reports of earlier parole or probation experiences;
- (4) reports concerning the person's present commitment that are relevant to the parole release determination;
- (5) any relevant information submitted by or on behalf of the person being considered; and
- (6) such other relevant information concerning the person as may be reasonably available.

(c) Unless the victim has requested in writing not to be notified, the department shall notify a victim of a felony (or the next of kin of the victim if the felony resulted in the death of the victim) or any witness involved in the prosecution of an offender imprisoned for the commission of a felony when the offender is:

- (1) to be discharged from imprisonment;
- (2) to be released on parole under IC 35-50-6-1;
- (3) to have a parole release hearing under this chapter;
- (4) to have a parole violation hearing;
- (5) an escaped committed offender; or
- (6) to be released from departmental custody under any temporary release program administered by the department, including the following:

(A) Placement on minimum security assignment to a program authorized by IC 11-10-1-3 or IC 35-38-3-6 and requiring periodic reporting to a designated official, including a regulated community assignment program.

(B) Assignment to a minimum security work release program.

(d) The department shall make the notification required under subsection (c):

- (1) at least forty (40) days before a discharge, release, or hearing occurs; and
- (2) not later than twenty-four (24) hours after the escape of a committed offender.

The department shall supply the information to a victim (or a next of kin of a victim in the appropriate case) and a witness at the address supplied to the department by the victim (or next of kin) or witness. A victim (or next of kin) is responsible for supplying the department with any change of address or telephone number of the victim (or next of kin).

(e) The probation officer conducting the presentence investigation

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shall inform the victim and witness described in subsection (c), at the time of the interview with the victim or witness, of the right of the victim or witness to receive notification from the department under subsection (c). The probation department for the sentencing court shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department of correction. The probation department shall supply the department with the information required by this section as soon as possible but not later than five (5) days from the receipt of the information from the victim. A victim (or next of kin) is responsible for supplying the department with the correct address and telephone number of the victim (or next of kin).

(f) Notwithstanding IC 11-8-5-2 and IC 4-1-6, an inmate may not have access to the name and address of a victim and a witness. Upon the filing of a motion by any person requesting or objecting to the release of victim information, witness information, or both that is retained by the department, the court shall review the information that is the subject of the motion in camera before ruling on the motion.

(g) The notice required under subsection (c) must specify whether the prisoner is being discharged, is being released on parole, **is being released on lifetime parole**, is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

- (1) The name of the prisoner.
- (2) The date of the offense.
- (3) The date of the conviction.
- (4) The felony of which the prisoner was convicted.
- (5) The sentence imposed.
- (6) The amount of time served.
- (7) The date and location of the interview (if applicable).

(h) The parole board shall adopt rules under IC 4-22-2 and make available to offenders the criteria considered in making parole release determinations. The criteria must include the:

- (1) nature and circumstances of the crime for which the offender is committed;
- (2) offender's prior criminal record;
- (3) offender's conduct and attitude during the commitment; and
- (4) offender's parole plan.

(i) The hearing prescribed by this section may be conducted in an informal manner without regard to rules of evidence. In connection with the hearing, however:

- (1) reasonable, advance written notice, including the date, time, and place of the hearing shall be provided to the person being

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considered;

(2) the person being considered shall be given access, in accord with IC 11-8-5, to records and reports considered by the parole board in making its parole release decision;

(3) the person being considered may appear, speak in the person's own behalf, and present documentary evidence;

(4) irrelevant, immaterial, or unduly repetitious evidence shall be excluded; and

(5) a record of the proceeding, to include the results of the parole board's investigation, notice of the hearing, and evidence adduced at the hearing, shall be made and preserved.

(j) If parole is denied, the parole board shall give the person written notice of the denial and the reasons for the denial. The parole board may not parole a person if it determines that there is substantial reason to believe that the person:

(1) will engage in further specified criminal activity; or

(2) will not conform to appropriate specified conditions of parole.

(k) If parole is denied, the parole board shall conduct another parole release hearing not earlier than five (5) years after the date of the hearing at which parole was denied. However, the board may conduct a hearing earlier than five (5) years after denial of parole if the board:

(1) finds that special circumstances exist for the holding of a hearing; and

(2) gives reasonable notice to the person being considered for parole.

(l) The parole board may parole a person who is outside Indiana on a record made by the appropriate authorities of the jurisdiction in which that person is imprisoned.

(m) If the board is considering the release on parole of an offender who is serving a sentence of life in prison, a determinate term of imprisonment of at least ten (10) years, or an indeterminate term of imprisonment with a minimum term of at least ten (10) years, in addition to the investigation required under subsection (b), the board shall order and consider a community investigation, which must include an investigation and report that substantially reflects the attitudes and opinions of:

(1) the community in which the crime committed by the offender occurred;

(2) law enforcement officers who have jurisdiction in the community in which the crime occurred;

(3) the victim of the crime committed by the offender, or if the victim is deceased or incompetent for any reason, the victim's

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1 relatives or friends; and

2 (4) friends or relatives of the offender.

3 If the board reconsiders for release on parole an offender who was
4 previously released on parole and whose parole was revoked under
5 section 10 of this chapter, the board may use a community investigation
6 prepared for an earlier parole hearing to comply with this subsection.
7 However, the board shall accept and consider any supplements or
8 amendments to any previous statements from the victim or the victim's
9 relatives or friends.

10 (n) As used in this section, "victim" means a person who has
11 suffered direct harm as a result of a violent crime (as defined in
12 IC 5-2-6.1-8).

13 SECTION 2. IC 11-13-3-4 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) A condition to
15 remaining on parole is that the parolee not commit a crime during the
16 period of parole.

17 (b) The parole board may also adopt, under IC 4-22-2, additional
18 conditions to remaining on parole and require a parolee to satisfy one
19 (1) or more of these conditions. These conditions must be reasonably
20 related to the parolee's successful reintegration into the community and
21 not unduly restrictive of a fundamental right.

22 (c) If a person is released on parole, the parolee shall be given a
23 written statement of the conditions of parole. Signed copies of this
24 statement shall be:

25 (1) retained by the parolee;

26 (2) forwarded to any person charged with the parolee's
27 supervision; and

28 (3) placed in the parolee's master file.

29 (d) The parole board may modify parole conditions if the parolee
30 receives notice of that action and had ten (10) days after receipt of the
31 notice to express the parolee's views on the proposed modification.
32 This subsection does not apply to modification of parole conditions
33 after a revocation proceeding under section 10 of this chapter.

34 (e) As a condition of parole, the parole board may require the
35 parolee to reside in a particular parole area. In determining a parolee's
36 residence requirement, the parole board shall:

37 (1) consider:

38 (A) the residence of the parolee prior to the parolee's
39 incarceration; and

40 (B) the parolee's place of employment; and

41 (2) assign the parolee to reside in the county where the parolee
42 resided prior to the parolee's incarceration unless assignment on

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1 this basis would be detrimental to the parolee's successful
2 reintegration into the community.

3 (f) As a condition of parole, the parole board may require the
4 parolee to:

5 (1) periodically undergo a laboratory chemical test (as defined in
6 IC 14-15-8-1) or series of tests to detect and confirm the presence
7 of a controlled substance (as defined in IC 35-48-1-9); and

8 (2) have the results of any test under this subsection reported to
9 the parole board by the laboratory.

10 The parolee is responsible for any charges resulting from a test
11 required under this subsection. However, a person's parole may not be
12 revoked on the basis of the person's inability to pay for a test under this
13 subsection.

14 (g) As a condition of parole, the parole board:

15 (1) may require a parolee who is a sex and violent offender (as
16 defined in IC 5-2-12-4) to:

17 (A) participate in a treatment program for sex offenders
18 approved by the parole board; and

19 (B) avoid contact with any person who is less than sixteen (16)
20 years of age unless the parolee:

21 (i) receives the parole board's approval; or

22 (ii) successfully completes the treatment program referred to
23 in clause (A); and

24 (2) shall:

25 (A) require a parolee who is an offender (as defined in
26 IC 5-2-12-4) to register with a sheriff (or the police chief of a
27 consolidated city) under IC 5-2-12-5;

28 (B) prohibit the offender from residing within one thousand
29 (1,000) feet of school property (as defined in IC 35-41-1-24.7)
30 for the period of parole, unless the offender obtains written
31 approval from the parole board; and

32 (C) prohibit a parolee who is an offender convicted of a sex
33 offense (as defined in IC 35-38-2-2.5) from residing within
34 one (1) mile of the victim of the offender's sex offense unless
35 the offender obtains a waiver under IC 35-38-2-2.5.

36 If the parole board allows the offender to reside within one thousand
37 (1,000) feet of school property under subdivision (2)(B), the parole
38 board shall notify each school within one thousand (1,000) feet of the
39 offender's residence of the order.

40 (h) The address of the victim of a parolee who is an offender
41 convicted of a sex offense (as defined in IC 35-38-2-2.5) is
42 confidential, even if the offender obtains a waiver under

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1 IC 35-38-2-2.5.

2 (i) As a condition of parole, the parole board:

3 (1) may require a parolee (other than a parolee described in
4 subdivision (2)) who is an offender (as defined in IC 5-2-12-4);
5 and

6 (2) shall require a parolee who has been convicted of:

7 (A) child molesting (IC 35-42-4-3) if the person was at least
8 eighteen (18) years of age at the time the person committed
9 the offense; or

10 (B) an offense in another jurisdiction that is substantially
11 similar to child molesting if the person was at least
12 eighteen (18) years of age at the time the person committed
13 the offense;

14 to wear a monitoring device (as described in IC 35-38-2.5-3) that
15 can transmit information twenty-four (24) hours each day
16 regarding a person's precise location.

17 (j) The following conditions of parole apply to a parolee who has
18 been convicted of child molesting (IC 35-42-4-3) or of an offense in
19 another jurisdiction that is substantially similar to child molesting:

20 (1) The parolee may not reside within one thousand (1,000)
21 feet of:

22 (A) school property (as defined in IC 35-41-1-24.7);

23 (B) a public park (as defined in IC 35-41-1-23.7); or

24 (C) a youth program center (as defined in IC 35-41-1-29).

25 (2) The parolee may not own, operate, manage, be employed
26 by, or volunteer at any attraction designed to be primarily
27 enjoyed by children less than sixteen (16) years of age,
28 including:

29 (A) a haunted house;

30 (B) a circus;

31 (C) an animal ride for children;

32 (D) a petting zoo;

33 (E) a carnival ride;

34 (F) a video game or pinball arcade; or

35 (G) a theatrical production:

36 (i) designed to appeal to children; or

37 (ii) in which most participants are children.

38 SECTION 3. IC 35-44-3-13 IS ADDED TO THE INDIANA CODE
39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
40 1, 2006]: Sec. 13. (a) A person who is being supervised on lifetime
41 parole (as described in IC 35-50-6-1) and who knowingly or
42 intentionally violates a condition of lifetime parole that involves

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1 direct or indirect contact with a child less than sixteen (16) years
 2 of age or with the victim of a sex crime described in IC 5-2-12-4
 3 that was committed by the person commits a Class D felony if, at
 4 the time of the violation:

5 (1) the person's lifetime parole has been revoked two (2) or
 6 more times; or

7 (2) the person has completed the person's sentence, including
 8 any credit time the person may have earned.

9 (b) The offense described in subsection (a) is a Class C felony if
 10 the person has a prior unrelated conviction under this section.

11 SECTION 4. IC 35-50-6-1 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Except as
 13 provided in subsection (d) or (e), when a person imprisoned for a
 14 felony completes his the person's fixed term of imprisonment, less the
 15 credit time he the person has earned with respect to that term, he the
 16 person shall be:

17 (1) released on parole for not more than twenty-four (24) months,
 18 as determined by the parole board;

19 (2) discharged upon a finding by the committing court that the
 20 person was assigned to a community transition program and may
 21 be discharged without the requirement of parole; or

22 (3) released to the committing court if his the sentence included
 23 a period of probation.

24 (b) Except as provided in subsection (d); This subsection does not
 25 apply to a person described in subsection (d), (e), or (f). A person
 26 released on parole remains on parole from the date of his release until
 27 his the person's fixed term expires, unless his the person's parole is
 28 revoked or he the person is discharged from that term by the parole
 29 board. In any event, if his the person's parole is not revoked, the parole
 30 board shall discharge him the person after the period set under
 31 subsection (a) or the expiration of the person's fixed term, whichever
 32 is shorter.

33 (c) A person whose parole is revoked shall be imprisoned for all or
 34 part of the remainder of his the person's fixed term. However, he the
 35 person shall again be released on parole when he the person
 36 completes that remainder, less the credit time he the person has earned
 37 since the revocation. The parole board may reinstate him the person
 38 on parole at any time after the revocation.

39 (d) This subsection does not apply to a person convicted of child
 40 molesting (IC 35-42-4-3) who was at least eighteen (18) years of age
 41 at the time the person committed the offense. When an offender (as
 42 defined in IC 5-2-12-4) completes the offender's fixed term of

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imprisonment, less credit time earned with respect to that term, the offender shall be placed on parole for not more than ten (10) years.

(e) This subsection applies to a person convicted of child molesting (IC 35-42-4-3) who was at least eighteen (18) years of age at the time the person committed the offense. When a person convicted of child molesting who was at least eighteen (18) years of age at the time the person committed the offense completes the person's fixed term of imprisonment, less credit time earned with respect to that term, the person shall be placed on parole for the remainder of the person's life.

(f) This subsection applies to a parolee whose parole supervision is transferred to Indiana from another jurisdiction following the person's conviction in another jurisdiction for an offense that is substantially similar to child molesting (IC 35-42-4-3) if the person was at least eighteen (18) years of age at the time the person committed the offense. In accordance with IC 11-13-4-1(2) (Interstate Compact for Out-of-State Probationers and Parolees) and rules adopted under Article VII (d)(8) of the Interstate Compact for Adult Offender Supervision (IC 11-13-4.5), a parolee whose parole supervision is transferred to Indiana following the person's conviction for an offense substantially similar to child molesting and who was at least eighteen (18) years of age at the time the person committed the offense is subject to the same conditions of parole as a person convicted of child molesting in Indiana who was at least eighteen (18) years of age at the time the person committed the offense, including:

- (1) lifetime parole (as described in subsection (e)); and
- (2) the requirement that the person wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(g) If a person being supervised on lifetime parole as described in subsection (e) is also required to be supervised by a court, a probation department, a community corrections program, a community transition program, or another similar program upon the person's release from imprisonment, the parole board may:

- (1) supervise the person while the person is being supervised by the other supervising agency; or
- (2) permit the other supervising agency to exercise all or part of the parole board's supervisory responsibility during the period in which the other supervising agency is required to supervise the person, if supervision by the other supervising

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agency will be, in the opinion of the parole board:

(A) at least as stringent; and

(B) at least as effective;

as supervision by the parole board.

(h) The parole board is not required to supervise a person on lifetime parole during any period in which the person is imprisoned. However, upon the person's release from imprisonment, the parole board shall recommence its supervision of a person on lifetime parole.

SECTION 5. [EFFECTIVE JULY 1, 2006] IC 35-44-3-13, as added by this act, applies only to crimes committed after June 30, 2006.

SECTION 6. [EFFECTIVE JULY 1, 2006] IC 35-50-6-1, as amended by this act, applies only to a person who commits a crime after June 30, 2006.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1155, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, line 6, delete "of" and insert **"of:**

(A)".

Page 7, line 7, delete "(IC 35-42-4-3)" and insert **"(IC 35-42-4-3) if the person was at least eighteen (18) years of age at the time the person committed the offense;"**.

Page 7, line 7, delete "of", begin a new line double block indented, and insert:

"(B)".

Page 7, line 8, delete "molesting;" and insert **"molesting if the person was at least eighteen (18) years of age at the time the person committed the offense;"**.

Page 7, line 9, delete "defined" and insert **"described"**.

Page 7, line 9, after "IC 35-38-2.5-3)" delete "." and insert **"that can transmit information twenty-four (24) hours each day regarding a person's precise location."**

Page 7, delete lines 10 through 39, begin a new paragraph and insert:

"(j) The following conditions of parole apply to a parolee who has been convicted of child molesting (IC 35-42-4-3) or of an offense in another jurisdiction that is substantially similar to child molesting:

(1) The parolee may not reside within one thousand (1,000) feet of:

- (A) school property (as defined in IC 35-41-1-24.7);**
- (B) a public park (as defined in IC 35-41-1-23.7); or**
- (C) a youth program center (as defined in IC 35-41-1-29).**

(2) The parolee may not own, operate, manage, be employed by, or volunteer at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age, including:

- (A) a haunted house;**
- (B) a circus;**
- (C) an animal ride for children;**
- (D) a petting zoo;**
- (E) a carnival ride;**
- (F) a video game or pinball arcade; or**
- (G) a theatrical production;**



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- (i) designed to appeal to children; or
- (ii) in which most participants are children."

Page 8, line 2, after "parole" insert **"that involves direct or indirect contact with a child less than sixteen (16) years of age or with the victim of a sex crime described in IC 5-2-12-4 that was committed by the person"**.

Page 8, line 8, delete "if:" and insert **"if"**.

Page 8, line 9, delete "(1)".

Page 8, line 9, after "this" insert **"section."**.

Page 8, run in lines 8 through 9.

Page 8, delete line 10.

Page 8, delete lines 11 through 21.

Page 9, line 9, delete "(IC 35-42-4-3)." and insert **"(IC 35-42-4-3) who was at least eighteen (18) years of age at the time the person committed the offense."**.

Page 9, line 14, delete "(IC 35-42-4-3)." and insert **"(IC 35-42-4-3) who was at least eighteen (18) years of age at the time the person committed the offense."**.

Page 9, line 15, after "molesting" insert **"who was at least eighteen (18) years of age at the time the person committed the offense"**.

Page 9, line 21, delete "(IC 35-42-4-3)." and insert **"(IC 35-42-4-3) if the person was at least eighteen (18) years of age at the time the person committed the offense."**.

Page 9, line 27, after "molesting" insert **"and who was at least eighteen (18) years of age at the time the person committed the offense"**.

Page 9, line 29, delete "Indiana," and insert **"Indiana who was at least eighteen (18) years of age at the time the person committed the offense,"**.

Page 9, line 32, delete "defined" and insert **"described"**.

Page 9, line 32, after "IC 35-38-2.5-3)" delete "." and insert **"that can transmit information twenty-four (24) hours each day regarding a person's precise location."**.

Page 10, line 11, delete "IC 35-42-4-3, as".

Page 10, line 12, delete "amended by this act, and".

Page 10, line 12, delete "apply" and insert **"applies"**.

Page 10, line 15, delete "person:" and insert **"person who commits a crime after June 30, 2006."**.

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Page 10, delete lines 16 through 18.
Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.
(Reference is to HB 1155 as introduced.)

ULMER, Chair

Committee Vote: yeas 9, nays 0.

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